

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FABIENNE ZANON,

Case No.: 2:20-cv-02080-JCM-EJY

Plaintiff,

v.

ORDER

BEAUTY BY DESIGN; RED ROCK
 SURGERY CENTER; ROBERT TROELL
 MD LTD; ROBERT TROELL; DAVID
 MALITZ, MD PC; DAVID MALITZ MD; and
 DOES and ROES 1 through 10,

Defendants.

Pending before the Court is Defendants Las Vegas Surgery Center, LLC DBA Red Rock Surgery Center, Davit Malitz MD PC, and David Malitz MD's Motion to Compel Discovery Responses. ECF No. 43. This Motion was filed on April 15, 2022. The original responsive due date was April 29, 2022. On April 22, 2022, Counsel for Plaintiff filed a Motion to Withdraw. ECF No. 46. On April 28, 2022, the Court entered an order that extended the date for a response to the Motion to Compel to June 6, 2022. ECF No. 47. This *sua sponte* extension was provided to allow "Plaintiff sufficient time to obtain new counsel and respond to the pending Motion to Compel should the Motion to Withdraw be granted." *Id.* On May 5, 2022, following no response from Plaintiff, the Court granted Counsel's Motion to Withdraw and reminded Plaintiff that his response to the Motion to Compel was to be filed by June 6. ECF No. 48. As of today's date, Plaintiff has not filed a response to the Motion to Compel.

Under Local Rule 7-2(d), the failure to oppose a motion may be treated by the Court as agreement by the non-moving party to the granting of that motion. The Court finds the failure to respond to the Motion to Compel, despite a lengthy extension of time to do so, is properly treated as Plaintiff's agreement to the granting of the Motion.

1 Accordingly, IT IS HEREBY ORDERED that the Defendants Las Vegas Surgery Center,
2 LLC DBA Red Rock Surgery Center, Davit Malitz MD PC, and David Malitz MD's Motion to
3 Compel Discovery Responses (ECF No. 43) is GRANTED.

4 IT IS FURTHER ORDERED that Plaintiff **must** provide responses to the outstanding
5 discovery requests no later than **June 17, 2022**. No objections may be raised as they are waived by
6 virtue of the failure to timely respond to the propounded discovery.

7 IT IS FURTHER ORDERED that Defendants are granted their reasonable attorney's fees
8 and costs for bringing the Motion to Compel. Defendants must prepare and file a memorandum
9 supporting the award of reasonable fees and costs including a breakdown of all time spent by attorney
10 and non-attorney staff by tenths of hours. The hourly billing rate and the support for such rate must
11 be included in the memorandum. The memorandum must be filed no later than **June 15, 2022**.

12 IT IS FURTHER ORDERED that Plaintiff shall have through and including **June 22, 2022**
13 to file a response to the memorandum.

14 IT IS FURTHER ORDERED that Plaintiff's failure to respond to discovery will be a
15 violation of this Order and may lead to further sanctions up to and ultimately including a striking of
16 Plaintiff's Complaint.

17 Dated this 8th day of June, 2022.

18
19 
20 ELAYNA J. YOUCHAK
21 UNITED STATES MAGISTRATE JUDGE
22
23
24
25
26
27
28